

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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JAMES M. ROBERTSON,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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Civil No. 15-10432-LTS

ORDER ON DEFENDANT'S MOTION TO  
DISMISS FOR FAILURE TO STATE A CLAIM (DOC. NO. 17)

May 17, 2016

SOROKIN, J.

Defendant the United States Federal Government (“The United States”) has moved to dismiss this case, asserting that Plaintiff James M. Robertson (“Mr. Robertson”) has not yet—as he must before coming to this Court—exhausted his administrative remedies by filing a request with the Army Board for the Correction of Military Records (“Army Board”) to adjust his service records to reflect his correct entry and exit dates. Doc. No. 17. The Court granted Mr. Robertson until April 30, 2016 to supplement his papers before the Court with evidence of a filing with, and decision by, the Army Board. Doc. No. 21. On April 28, 2016, Mr. Robertson submitted an Application for Correction of Military Record which he appears to have filed with the Army Board on April 3, 2016. Doc. No. 30. While evidence of Mr. Robertson’s attempt to exhaust his administrative remedies, this filing does not show that he has exhausted them. Accordingly, the Court DISMISSES WITHOUT PREJUDICE this action for failure to exhaust administrative remedies. See Navas v. Gonzalez Vales, 752 F.2d 765, 769 (1st Cir. 1985).

Nothing in this dismissal prevents Mr. Robertson from continuing to proceed before the Army Board and, if unhappy with the Army Board's decision, then filing for review of that decision in this Court. The Clerk shall mail this Order to Mr. Robertson.

SO ORDERED.

/s/ Leo T. Sorokin  
Leo T. Sorokin  
United States District Judge